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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/943,609

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Jeffery C. Beman

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EXAMINER

LAstra, DANIEL

ART UNIT

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3688

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/943,609	Applicant(s) BEMAN ET AL.	
	Examiner DANIEL LASTRA	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 and 18-49 have been examined. Application 09/943,609 (SYSTEM AND METHOD FOR ESTIMATING AVAILABLE PAYLOAD INVENTORY) has a filing date 08/29/2001.

Response to Amendment

2. In response to Non Final Rejection filed 11/07/2008, the Applicant filed an Amendment on 05/07/2009, which amended claims 1-3, 6-9, 12-15, 18-20, 23-25, 29-30, 32-36, 39-44, 47-49.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-30, 33-49 are rejected under 35 U.S.C. 101 because they are directed to non statutory subject matter. With respect to claims 18-30 and 33 said claims are written as system claims however, they are claiming functional descriptive material (i.e. software) as payload processor and payload manager are defined in Applicant's specification as modules. With respect to claims 34-49, said claims are not claiming a proper computer readable medium as Applicant's specification defines said medium as a "carrier wave" (see page 10, lines 22-25).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-30, 33-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 18-30 and 33 are indefinite because they are system claims and claims 34-49 are indefinite because they are claiming a proper computer readable medium.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 18-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Muret (US 2002/0042821) in view of Langheinrich (US 6,654,725).

As per claims 1, 18 and 34, Muret teaches:

A method for processing advertisement requests, the method comprising:

utilizing a first computing process, generating a set of *target market segment* arrays having a target market segment array corresponding to each *advertisement target market segment* criterion in the set of *advertisement target market segment* criteria, wherein each target market segment array in the set of target market segment arrays includes a plurality of array elements corresponding to periods of time (see paragraphs 55 and 117);

obtaining a request for *an advertisement from one of a user and a content provider*, the advertisement request including one or more target market data elements wherein the advertisement request is associated with a time (see figures 24, 28);

upon determining that at least one of the target market data elements corresponds to a particular advertisement target market segment criterion obtained from the advertiser incrementing a numerical identifier in the one or more of the plurality of array elements *included in the target market segment array that corresponds to the particular advertisement target market segment criterion utilizing a second computing process, the numerical identifier* corresponding to the time associated with the advertisement request (see figure 28, paragraphs 218-219)

wherein the first and second computing processes are performed by one or more computing devices (see paragraph 305).

Muret does not expressly mention obtaining a set of *advertisement target market segment* criteria from an advertiser for delivering at least one advertisement, the set of *advertisement target market segment* criteria including one or more *advertisement target market segment* criterion. However, Langheinrich teaches a that it is old and well known in the promotion art to target advertisements to users based upon matching advertisers' constraints, such as type of browser software, time of the day, age, gender, demographic (see col 1, lines 30-45) with client requests such as relevant to a search query (see col 1, lines 45-55) and keeping track in a log file on how well each advertisement performed in order to determine the effectiveness of said advertisement (see col 2, lines 1-5; col 9, lines 1-35). Therefore, it would have been obvious to a

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person of ordinary skill in the art at the time the application was made, to know that Muret would obtain advertisements' target parameters from advertisers in order to target advertisements to clients, as taught by Langheinrich and would keep track in a log file of the performance of search engine registrations, banner ad placements and ad campaigns in order to determine the effectiveness of advertisements and therefore, produce reports showing detailed return of investment information, by identifying which banner ads are producing specific dollars.

As per claim 2, Muret teaches:

wherein generating a set of target market segment arrays having a target market segment array corresponding to each advertisement target market segment criterion in the set of advertisement target market segment criteria includes:

parsing the set of advertisement target market segment criteria in a particular order (see paragraph 117); and

generating a set of arrays in an order corresponding to the particular order of the set of advertisement target market segment criteria (see paragraph 117).

As per claims 3, 26 and 44, Muret fails to teach:

processing a plurality of numerical identifiers in the set of target market segment arrays to predict an estimated number of future advertisement requests. However, Langheinrich teaches a system, which forecast advertisements requests based upon the effectiveness of advertisements to generate business (see col 9, lines 1-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Muret would use the effectiveness of

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advertisements to generate business, as taught by Langheinrich in order to forecast the delivery of advertisements to said users for the purpose of optimizing said delivery.

As per claim 4, Muret fails to teach:

wherein the processing includes applying a trend analysis. However, Langheinrich teaches a system which uses trend analysis to forecast future advertisements requests (see page col 9, lines 1-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Muret would use the effectiveness of advertisements to generate business, as taught by Langheinrich in order to forecast the delivery of advertisements to said users for the purpose of optimizing said delivery.

As per claims 5, 6, 7, 28, 29, 30, 46, 47 and 48, Muret fails to teach:

wherein the trend analysis includes a least-squared trend analysis or linear trend analysis or set theory trend analysis. However, Langheinrich teaches a system which uses trend analysis to forecast future advertisements requests (see page col 9, lines 1-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Muret would use the effectiveness of advertisements to generate business, as taught by Langheinrich in order to forecast the delivery of advertisements to said users for the purpose of optimizing said delivery.

As per claims 8, 19 and 35, Muret teaches:

wherein the advertisement is from an advertisement campaign (see paragraph 252).

As per claims 9, 20 and 36, Muret teaches:

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wherein the set of advertisement target market segment criteria includes user demographic information (see paragraphs 53 and 284).

As per claims 10, 21 and 37, Muret fails to teach:

wherein the user demographic information includes a user age. However, Langheinrich teaches that it is old and well known in the promotion art to target advertisements to a user based upon user's age. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Muret would keep track of users' age that access a website, as taught by Langheinrich the same way as keeping track of the regional location of users that access said website (see paragraph 284) in order to determine the effectiveness of advertisements.

As per claims 11, 22 and 38, Muret fails to teach:

wherein the user demographic information includes a user gender. However, Langheinrich teaches that it is old and well known in the promotion art to target advertisements to a user based upon user's gender. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Muret would keep track of users' gender that access a website, as taught by Langheinrich the same way as keeping track of the regional location of users that access said website (see paragraph 284) in order to determine the effectiveness of advertisements.

As per claims 12, 23 and 39, Muret teaches:

wherein the set of advertisement target market segment criteria includes one or more keywords (see paragraph 271).

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As per claims 13, 24 and 40, Muret teaches:

wherein the set of advertisement target market segment criteria includes an identifier of a target content provider (see figure 27).

As per claims 14 and 42, Muret teaches:

wherein each array in the set of target market segment arrays includes 168 array elements (see paragraph 260, figure 28).

As per claims 15 and 43, Muret teaches:

wherein the array elements are representative of 1-hour increments (see figure 29).

As per claims 25 and 41, Muret teaches:

a user information store operable to obtain a user identifier and provide user identifier criteria to the target market data elements (see figure 24).

As per claims 27 and 45, Muret fails to teach:

wherein the payload manager generates future inventory payload data by applying a forecasting method. However, Langheinrich teaches a system which uses trend analysis to forecast future advertisements requests (see page col 9, lines 1-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Muret would use the effectiveness of advertisements to generate business, as taught by Langheinrich in order to forecast the delivery of advertisements to said users for the purpose of optimizing said delivery.

As per claim 31, Muret teaches:

wherein the plurality of array elements includes 168 array elements (see paragraph 260, figure 28).

As per claim 32, Muret teaches:

wherein the plurality of array elements are representative of 1-hour increments (see figure 29).

As per claims 33 and 49, Muret teaches:

wherein the payload manager is operable to generate advertisement campaign compliance data by processing the data within the set of target market segment arrays (see paragraph 252).

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Examiner, Art Unit 3688
July 27, 2009